

TREASURY - GENERAL

STATE INVESTMENT COUNCIL

Common and Preferred Stocks and Issues Convertible into Common Stock of International Corporations and International Equity Exchange-Traded Funds

Proposed Amendment: N.J.A.C. 17:16-44.1

Authorized By: State Investment Council, William G. Clark, Director,
Division of Investment

Authority: N.J.S.A. 52:18A-91

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number: PRN 2005-236

Submit comments by August 19, 2005 to:

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The agency proposal follows:

Summary

The proposed amendments to this rule are intended to clarify which international corporate securities may be invested in pursuant to N.J.A.C. 17:16-44. The intent is to rephrase the language of N.J.A.C. 17:16-44.1 in order to make the section more understandable.

The Council is proposing to delete the language at the end of the first paragraph of N.J.A.C. 17:16-44.1(a) in order to clarify that the conditions listed below it apply to companies and banks, and not to countries.

N.J.A.C. 17:16-44.1(a) currently provides that an investment in a company is permissible if the company meets any of four listed conditions. The Council is proposing to amend the subsection so that a company must meet either one of the first two conditions, plus both of the last two conditions. This amendment is consistent with the Council's current practice.

The Council is proposing to amend paragraph 1 of N.J.A.C. 17:16-44.1(a) to correct the name of the Approved List of International Governments approved by the Council pursuant to N.J.A.C. 17:16-20.1(b) and to clarify that the list itself is not set forth in that Section.

The Council is proposing to amend paragraph 2 of N.J.A.C. 17:16-44.1(a) by moving the paragraph to be a part of paragraph (a) 1 and by amending the language of the paragraph to clarify that the aggregate market capitalization of all companies domiciled in the same country, and not just the market capitalization of the corporation itself, must represent more than five percent of the Morgan Stanley Capital International EAFE Index.

The Council is proposing to amend paragraph 3 of N.J.A.C. 17:16-44.1(a) to recodify it as paragraph (a) 2 and make a grammatical change necessitated by the proposed amendment to the first paragraph.

The Council is proposing to amend paragraph 4 of N.J.A.C. 17:16-44.1(a) to recodify it as paragraph (a) 3 and clarify that the stock of the international corporation, and not the corporation itself, must be traded on an exchange or over-the-counter market.

Because the Division is providing a 60-day comment period on this notice of proposal, this notice is exempt from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

There will be no social impact from the proposed amendments.

Economic Impact

There will be positive impact from the proposed amendments on participants in those pension and annuity funds eligible to invest in the stock of international

corporations. The amendments codify the Council's current practice of requiring certain levels of marketability and capitalization to help ensure the liquidity and stability of its international investments.

Federal Standards Statement

A Federal standards analysis is not required because the investment policy rules of the State Investment Council are not subject to any Federal requirements or standards.

Jobs Impact

The State Investment Council and the Division of Investment do not anticipate that any jobs will be generated or lost by virtue of the amendments to this rule.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required, since the proposed amendments impose no requirements on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., but regulate only the Director of the Division of Investment.

Smart Growth Impact

The proposed amendments are not anticipated to have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

17:16-44.1 Permissible investments

(a) Subject to the limitations contained in this subchapter, permissible investments include stock issued by a company [or bank incorporated or organized under the laws of the countries]:

1. [Listed[**Incorporated or organized under the laws of the countries** on the Approved List of International Governments [and Agency Obligations set forth in] **approved by the Council pursuant to N.J.A.C. 17:16-20.1(b), or domiciled in a country where the market capitalization of the companies included in the Morgan Stanley Capital International EAFE (MSCI EAFE) Index for that country represent more than five percent of the MSCI EAFE Index;**

[2. That comprise more than five percent of the market capitalization of the stocks included in the Morgan Stanley Capital International EAFE (MSCI EAFE) Index;]

[3.] **2.** That [have] **has** a minimum market capitalization of \$US250 million. Subsequent to purchase, if capitalization falls below \$US250 million, the investment does not have to be sold; [or] **and**

[4.] **3.** **Whose stock** tradess on an exchange or over-the-counter market.

(b) -(d) (No change.)